

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

-against- :

KWAN THOMAS, :

Defendant. :

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USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 3/26/08

07 Civ. 7203 (WHP)

06 Cr. 349 (WHP)

ORDER

WILLIAM H. PAULEY III, United States District Judge:

Defendant Kwan Thomas ("Thomas") moves this Court pursuant to Fed. R. Crim. P. 41(g) for the return of property seized from a residence in Raleigh, North Carolina. For the following reasons, Thomas's motion is denied.

On March 21, 2005 local law enforcement authorities in North Carolina searched a residence in Raleigh pursuant to a warrant issued by the Wake County District Court. Eighteen months later, Thomas was charged by an Information in the Eastern District of North Carolina with access device fraud stemming from the March 2005 search. In the meantime, Thomas was arrested in the Southern District of New York in December 2005 and subsequently charged by an Information with access device fraud and identity theft. On October 10, 2006 Thomas pled guilty to the two-count Information in the Southern District of New York. Thereafter, he agreed to a transfer of the federal charge in Eastern District of North Carolina to the Southern District of New York and pled guilty to that Information as well. This Court sentenced Thomas to a term of imprisonment and ordered Thomas to forfeit specific property. None of the items forfeited pursuant to this Court's judgment were seized pursuant to the Wake County search warrant.

"A person aggrieved by an unlawful search and seizure of property or by the deprivation of property may move for the property's return. The motion must be filed in the

district where the property was seized . . . .” Fed. R. Crim. P. 41(g). It is undisputed that the property at issue was seized in the Eastern District of North Carolina pursuant to a state search warrant. Accordingly, Thomas must seek this relief in the Eastern District of North Carolina and his motion is denied.

The Clerk of Court is directed to mark this case closed.

Dated: New York, New York  
March 26, 2008

SO ORDERED:

  
WILLIAM H. PAULEY III,  
U.S.D.J.

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